Famous Stopping Place for Cubans and Besort of Writers, Sculptors and Painters Falls I pon Sad Days - Madame Died Then Murder Came and Soon the End.

The very last bit of fuel in the coal bins of the Hotel Griffou at 19 West Ninth street was used up on Thursday night, and yesterday 'Cervio, the Cuban negro waiter, sat slone looking out on the melting snow. 'Cervio's hand was bandaged where his inflammatory rheumatism had swollen the finger joints and he shivered as he sat alone in the chill, deserted office. Louis Griffou, who had tried unsuccessfully to keep the hotel going since Madame Marie, his mother, died last April, was hiding from his creditors some place. Back h, the dimly lighted dining room, with its old fashioned furnishings, the chairs were piled on the tables. The cigar case contained nothing but a drunken heap of empty boxes.

There were pictures on the walls of the office and corridor of men and women who were guests in the great days, brave names like Antonio Maceo, President Palma, Mile. Aimée, André Castaigne; but all the writers, sculptors and painters who for wenty-eight years have either lived at the kotel or dined, in the summer time, in the open air out on the rear portico among the potted plants are gone. 'Cervio, who speaks so many languages that no one would venture a guess as to his nationality, alone remained. He has been there since he came from Cuba more than twenty years ago, and even though the Griffou was closed for all time yesterday 'Cervio could think of no place else to go.

"M'sieu Looee he come back bimeby ch. an' we start again, may bee, ch?" said Cervio wistfully, and shivered.

There was a feeling akin to personal loss all over the artistic Washington Square neighborhood yesterday when word went abroad that Loose had given up the fight and had ignominiously fled when policemen from the Mercer street station had come to the hotel to arrest him for being months behind with his license money Detective Fitzgerald would have got Loose too, if Annie Holman, who was house keeper at the Griffou when Ninth street and Fifth avenue was not "too far down town," hadn't stood with arms akimbo at the foot of the red carpeted stairs and blocked the way long enough-

Well, when the detective and the three plain clothes men who were with him finally got by Annie and went up the stairs to search the house Looee wasn't to be found and even 'Cervio hasn't seen him since Annie Holman said, "Muy bien!" when the detectives came downstairs empty handed-which shows how long Annie has been at the Griffou. Annie has almost forgotten her English.

It is nearly thirty years since Mme. Marie Griffou got hold of the two houses at 19-21 West Ninth street and opened the little hotel that later achieved the fame of being featured in short stories. In its heyday William M. Chase, Augustus St. Gaudens, Carroll Beckwithand others spent their days in the big barnlike Studio Building, around the block in West Tenth street, and when the noon hour happened along they gathered before the broiled chicken, the spaghetti and the pink ink of the Griffou, because the chicken was good and because the pro-fessional bohemians hadn't found the place as yet. Indeed, the professionals never found it, which is one reason, perhaps, why Annie Holman had to block the stairway against the police.

"And in the great days," said 'Cervio Nesterday, "ah, but the great Cubans came here: All during the Spanish war the men that must run away from Cuba and Weyler they come here too, and M'sieu Looee free come here too, and M sieu Loose Griffou he say nothing but, 'Annie, see that No. 12 is fixed up to-day for a fine gentle-man.' They did not have to sign their real names at the deak, the fine gentlemen. It was enough that M'sieu Loose he know who they were. Generals, they came, and Colonels, and till late in the night they talk behind the closed door and the glorious blans are made. They were not the the cheap skates, like come now to the hotels

over near University place, but fine gentle-men. Colonels and Generals.

"Mme. Marie—she is M'sieu Looee's mother—make money then and she gets the house across the street at No. 22 and ix it up grand for her niece to take care of the guests that smill over. Thousands of the guests that spill over. Thousands of dollars madame spend to fix up the place and all that money is lost. All the time the Griffou make the money, but the No. 22

across the street is a failure.
"Do you know Josiah Flynt, who write about the tramp? He come here—for eight years he come here on and off and the and write and write. Golly, how write! But he is dead. Everybody is ad. And André Castaigne, eh? When come to America from France straight to the Griffou he repair and always he stay here. And he is a great artist. And William M. Chase, you know him? In the great days M'sieu Chase he come here, with his French high hat and the swinging of the cane and the carnation in his button hole-always the carantion in his button-hole-and the gaiters with the little white "Sometimes long ago M'sieu Saint Gau-

dens, who makes statues, comes in here. He look so sad always, but he is happy. It is long ago that he was here. And there was Thomas Janvier here, who writes about the Griffou in mazagine tales and in books, and when M'sieu Looee he read those tales, and when M sieu Looee he read those tales, my, he is proud! M'sieu Marvin, who makes the safes for the banks, he would come, too, and M'sieu Frank White and M'sieu James Wall Finn, who paints decorations; and Carroll Beckwith, and Guy Wetmore Carryl until he die; and W. Emmet Neure loop and who is freeing Ireland. Moore, long ago, who is freeing Ireland diners look up, 'To the hell with ad!' like that—'To the hell with Eng-And, alas, after he had ordered the wine again he would begin to swear about England, so that Madame would tell him to Years ago he died, but he was a

And there were great poets-Edmund Clarence Stedman, he comes, and Charles G. D. Roberts and Bliss Carman. Long, long ago Mile. Aimée, who is a famous artiste in the Opéra Comique then she stay here when she come to America to sing in the Grand Opera House. When she come back again she stay here also, and the Griffou is noted because she is with us.

The tall Herr Magelewsen, the sculptor, come here almost till the last box of cigarettes is sold from the case last week.

"When Madame die last April, M'sieu Looee grieve and grieve, but he is quick getting over that nice and fine when there are surface here. In the last week. is a murder here. In the last week of October was the murder. Often had this man. Louis Hampton, who did the murder, come here for luncheon with the fine looking girl he killed. Her name was Victoria Taczkaw, and Misieu Loee think they are husband and wife. As God is my judge, Misieu Looee think they are husband and wife, and that they come in here from the neighborhood to lunch. Always M'sieu Looee run a good house, and when this Louis Hampton and the girl want a room night M'sieu Looee, of course, let have it. But one night last October Hampton shoot the girl dead through the heart upstairs and then shoot himself. We try to keep this thing quiet, but it will

get out, eh?
"When it gets in the papers the next day M'sieu Looee is bowed with shame, and after that things went down and down and down. Everybody leave us, it seems, right away M'sieu Oliver Herford, who come here often, he likes M'sieu Loose and knows he is not to blame for this, the most terrible murder, and so M'sieu Herford gets up a ciub of the artists to meet here on Thurs-days for dinner to bring them back. But it

was never like the old times again."

Bad as matters were with the old hotel

after the Hampton murder and suicide, they had become almost as shaky for some time before this. When Madame Marie grew too old to give personal attention to the house there was a rapid falling off in the the house there was a rapid falling off in the quality and quantity of the clientèle. Not so very long ago a heroic effort was made by the Griffou management to revivify the house by paving a more or less famous professional Bohemian a salary to frequent the dining room and to bring as many of his near highbrows with him as possible. For some reason New York didn't flock to see the professional geniuses sitting around on salary and nothing came of the scheme. It did more harm than good, inasmuch as

on salary and nothing came of the scheme. It did more harm than good inasmuch as some of the men who really did things became disgusted and avoided the place.

There was less and less money in the cash register and finally the police came to get M sieu Looee on complaint of the State Excise Board, to whom Looee had not paid anything since last May. Looee got away, as has been said, while the faithful Annie held the staircase, and the only thing left. held the staircase, and the only thing left for the police to do was to gather in Dom-inick, the Italian head waiter. Dominick was taken over to the Jefferson market court at the end of the block, charged with serving few remaining guests without a

icense. His hearing will come up later.

Dominick was not to be seen yesterday.
Jean Arcilla, who has been a waiter in the notel for years, came in in the afternoon and sat silently while 'Cervio fastened old news-papers over the windows to keep out the cold. Jean looked fairly company Jean looked fairly comfortable in his heavy overcoat, but 'Cervio, clad in a thin undershirt and his coat buttoned about his neck, hobbled about rheumatically and shivered. The larder was empty, there were no fires and the last bottle of the red wine had vanished.

"To-day I order some coal to warm up when M'sieu Looee come back," said 'Cervio. "Last night I sleep here alone and, ah, it was cold!" But it is not likely that M'sieu ooee will come back.

NOT FOR UNION SQUARE SITE. Board of Estimate Committee Not Likely

to Approve Court House Plan The Board of Estimate's special committee which was appointed to consider the recommendation of the Court House Commission that the new court house should face Union Square between Fourteenth and Seventeenth streets is not likely to indorse the commission's suggestion. The committee held a public hearing yesterday, and at the close of it President McGowan of the Board of Aldermen and Borough President Ahearn said that they thought that as the estimate of the cost of the site was \$15,000 -000 they would not be justified in making a report in favor of the commission's scheme.

Comptroller Metz, the third member of the special committee, said that he would have to think the matter over long and seriously before he would vote for an expenditure of \$15,000,000 for a site for a new court house. Mr. Metz was angry also because of the want of civic interest shown in what was generally conceded to be a greatly needed public improvement. "For years," he said at the hearing, "we

have heard demands for a new court house, yet when the Board of Estimate is trying to do something in the way of getting a new building and asking the advice of the Judges and the bar we find at this public hearing to-day just four persons."

The four were divided into two factions?

L. Napoleon Levy and H. Schmidt, speaking for property owners in the neighborhood of Union Square, opposed the adoption of the commission's report, while ex-Judge Cohen, one of the members of the com-mission, and Austen G. Fox, representing the Bar Association, repeated the recommendations made in the commission's report.

At one stage of the hearing President Ahearn suggested that by spending \$1,000,000 in enlarging the present Court House sufficient space could be provided for the courts, but Mr. Fox protested that the old building outh to be reseated the courts. ilding ought to be vacated because of its nhealthy and unsanitary condition. While Judge Cohen was speaking Mr. While Judge Cohen was speaking Mr. Metz asked when it was that the commission finally decided on the Union Square site. Judge Cohen replied that it was in the fall of 1906. "Well, that's funny." Mr. Metz answered, "because just after I took office, and that would be several months before I took office, a man came to me. I

before I took office, a man came to meforgot whether it was an architect or a real estate agent—and showed me plans for a court building on the very site that you chose. I didn't know at that time that there was a commission in existence to find a site for a new court house.

eeting Mr. Metz said he did not mean to hint at anything improper out that the coincidence had occurred to

SUBWAY CONTRACT APPROVED.

Borough President Coler the Only Objector in the Board of Estimate

The Board of Estimate approved yesterday the form of contract for the new Lexington avenue subway and also that for the subway loop between the Brooklyn and Williamsburg bridges. The Rapid Transit Commission has formally adopted the contracts and all that now remains to be done before bids are advertised is to obtain the approval of Corporation Counsel Ellison.

The bridge subway proposition was indorsed unanimously, but when a vote was taken on the Lexington avenue route Borough President Coler of Brooklyn opposed. He explained that he voted in the negative because be believed that Brooklyn was being discriminated against in the matter of new subways. He also protested that the conditions of the Lexington avenue contract would mean that the only bidder for the route would be the Interborough Company.

Acting on the suggestion of Comptroller Metz, President McGowan of the Board of Aldermen and Borough President Ahearn the board approved of the scheme to acquire the site at Rockaway Point for a seaside

The committee expressed the belief that this would be the last opportunity for the city to acquire an ocean front park within the city limits and it was recommended the city limits and it was recommended that definite action should be taken without further delay. The adoption of the report means that the administration will now proceed to purchase the property either private sale or by condemnation pro-edings. It is estimated that the cost of

the land will be about \$1,000,000 The board had so large a calendar to go through yesterday that there was little disposition on the part of the members to usual weekly vaudeville dialogues. one little spat worth recording oc-d. President Coler, after making a

speech in favor of some appropriation for Brooklyn, wound up with the declaration: "I want to do something for Brooklyn, mething that will be of advantage her. I want to see Brooklyn get fair play."
"Then why don't you resign?" Comptroller
Metz tartly remarked.

SKULL RESISTS A BULLET.

Bendelph Has a Wound in His Forehead

-Shot After quarrel at Cards. Dr. Duncan, on a St. Gregory's hospital ambulance, was answering a call to 54 James street last night to take Thomas Hasslett, a rheumatic, to the hospital. He had just reached Hasslett when he heard three shots across the street and looked up in time to see a man fall to the pavement and another dash away.

The surgeon ran across and found the man who was shot uncers ious, with a bullet would in his forehead. He was placed in the a nonlance beside Hasslett and rushed to the hospital, where it was found his skull had resisted the bullet. The surgeone say

may recover. When the man regained consciousness he said he was Ernest Bendolph, 20 years old, a candy maker of 52 James street. He told Detective Wall of the Oak street police station that he had an altercation with Luigi Ferari, who lives in Bayard street. near Mott, over a game of cards in the liquor store of Luigi Rita, 59 James street. Ben-dolph said he left the game but was followed to the street by Ferari, who began to shoot at him. The third shot took effect and his assailant escaped.

MECHANICS' BELLRINGER DEAD

E. F. MOYIHAN, WHO SAW MANY FAMOUS CLIPPERS LAUNCHED.

One of the Last of the Ald Eleventh Wand Roys Who Lived Among an Alten People-He Died in House Built by Shipbuilder Webb -History of Old Bell.

As a toddler along the waterfront of he old Eleventh ward, the home of sturdy American and Irish American shipwrights, Edward F. Moynihan saw some of the sweetest" clippers and packets that ever won glory for the Stars and Stripes glide from the ways of the shippard of William H. Webb. Yesterday morning Mr. Moynihan died at 298 Seventh street, one of the houses built for the great shipbuilder and once occupied by his family. It is a roomy plain brick, with the basement below the level of the sidewalk, but as dry as the cabin of a Webb packet.

Mr. Movnihan was 64 and until a few reeks ago apparently was in excellent health. He succumbed quickly to pneumonia that gripped him on Saturday. With his passing there goes the last, save one, of the "old boys" of the famous Fifth street school who still remember the days of shipyard activity and decay and who have lived in the ward from their boyhood. The lone survivor is A. W. Moynihan, brother of Edward.

Edward was not a native of the ward. as his brother is. He came here with his father when he was eighteen months old. The father was a shipwright and went to work immediately after landing from a Yankee ship in the Webb yards. Edward was a boy of six when he saw the first three decker packet ship launched. She was the Guy Mannering and her skipper, every one of her officers and nearly all her crew were native Americans. Edward was eight when he saw the famous clipper Comet take the water and nine when he mingled with the throng that cheered the Flying Dutchman when she slipped down the ways. The Flying Dutchman had a record of 4,620 miles in sixteen days. When the gallant Young America, which made the trip to Liverpool in eighteen days and sailed from San Francisco to this port in eighty-three days, was launched, he was years old.

As a boy Edward was employed in the vards, and when he reached his twentieth year he went to work in the ship chandlery of William Young, then at Lewis and Fourth streets. He had been forty-four years with Mr. Young and was still with him when ne moved his store to Ninth street and

he moved his store to Ninth street and Avenue D a few months ago.

Edward's brother, A. W. Moynihan, known by the old timers as Abe, recalled yesterday some of the events that made the old ward beloved by Americans and Irish-Americans of the shipyard period. There were originally seventeen children in the Moynihan brood, nine boys an deight of the All are dead except Abe. It was All are dead except Abe. It was radition in the ward when he was a boy that Isaac Webb, the father of William, had made the plans, in a house just back of the Moynihan home, of some of the best f the fleet that helped to give victory to commodore Perry on Lake Erie.

Edward is chiefly remembered for his interest in the old Mechanics' Bell, which was erected in 1844 by the shipwrights to mmemorate their victory over the bosses obtaining a ten hour day Before that he workmen worked from sunrise to sunset Thereafter the bell rang four day, at 7, at noon, at 1 and at 6 o'clock. It weighed 1,000 pounds, was resonant, clear toned and could be heard in Calvary Cemetery on days when the wind was right Sometimes at a shipwright's funeral the sound of the bell came out faintly to the very grave. A man too old to work was hired to ring the bell and all the ward, in fact half the town up to the war period took the time of the bell to regulate watches

there was a strike for an organization. The strike failed and the shipafterward there was a strike for an eight hour day. The strike failed and the ship-ping business went to pieces. In the '70s the bell was taken down. This incident spired Edward A. Movnihan and brother Abe to begin an agitation for its restoration. Abe, who has written verse for THE Sun and other papers, was provoked to rhymes, in which he said:

· · \* Let it proudly stand As it stood and tolled for years For the shipping of the land

It called the shipwright to his axe. The smithy to his forge. And saw the Yankee banner wave

Above the "Royal George."

The workmen of the ward responded to the appeal of the Moynihans and the Bell finally was put in place again. Meanwhile there had been an effort on the part of the shipwrights, nearly all of whom were now working in Brooklyn, to move the bell to working in Brooklyn to move the bell to that city. The old Eleventh ward boys decided that Brooklyn should never get the bell. It is supposed that some New Yorker, fearful that the precious relic would be stolen, deliberately cracked it. It ceased to ring again. Then the old boys organized the Old Mechanics' Bell Association and got enough money in subscriptions to pay for recasting the bell. Many of the boys threw half dollars, quarters, dimes and nickels into the molten metal, and this, it is contributed to the beauty of the ton

f the recast bell. Edward Moynihan engineered a demon-Edward Moynihan engineered a demonstration on October 30, 1880, to mark the restoration of the bell. Congressman Sunset Cox was one of the chief speakers. In the procession were veterans of the old volunteer fire companies, Live Oak, No. 44, Bunker Hill, Old Stag and several others not so famous in the ward. The most conspicuous banner in the parade bore on one side this inscription:

The Mechanics' Bell Will be Protected

By the Sons of the Men

The Old Mechanics' Bell, Erected in 1844 On the other side was this:

Who Erected It. About seven years ago the bell ceased altogether. The old time population's descendants had with few exceptions moved Harlenward or across the East River and with the pouring in of strange peoples unable to talk the American language interest in the sentimentalism of the natives faded. The bell was taken down and sent up to Webb's Academy and Home for Shipbuilders, which was founded by William H. Webb. It is stowed in an

OPERATE ON DEFICIENT PUPILS.

outhouse as a relic and never again will rouse the decrepit old shipwrights who used

to hear it in the clipper days and are now

on the bounty of their old em-

Swollen Tonsils Given as Cause for Back-

wardness of Many Children SOUTH MANCHESTER, Conn., March 8 .-The physicians of this town have recommended operations on the throats of 200 school children in the Eighth district here Of 1,000 pupils in the schools one-sixth of them are suffering from swollen tonsils which, the physicians say, prevents them from making progress in their school work.

Howell Cheney, chairman of the school district, examining the work of the children district, examining the work of the children in that school, found that it was below the average of the other schools in town. He started an investigation and learned that nearly one-fourth of the children in that district could not breathe freely through their nostrils, but breathed through their mouths. These children were those who stood lowest in scholarship.

Physicians who were called in to examine

the children found that they were suffering from swollen tonsils which, they said, produced an indifferent spirit in the children and a tendency to be cross. The cure is a simple operation, and the parents of the children will be urged to have the trouble corrected at ones. More girls than boys are afflicted.

WOODROW WILSON'S LECTURE. SUIT TO OUST MAYOR GOOD. Says the United States Hasn't Followed Its

Theories of Government. Woodrow Wilson, president of Princeton University, gave yesterday the second of his lectures on constitutional government before a large audience at Columbia University. The last part of his address was a note of warning against the tendency to violate political theories in the United States.

President Wilson had been pointing out how the United States Government had been founded on the theory of the balance of power, but had never stuck closely to the theory. "Don't you see," he said, "that unless you keep these great powers of change within the limits of the law, unless we keep a strict and punctilious conscience as to the way we do things-don't you see that we are going to break the whole structure?

"The English people have always been interested in theory, but they have not always acted on it. In theory we have the notion of Montesquieu about the balance of power. If we try to square the present Government of the United States with that theory we will see how far we have drifted away. We seem to have in our brains two watertight or rather thought tight compartments, the one for theory and the other

"I am not quarrelling with this; I am only pointing it out. We could not get along in any other way. We can't confine a political system in the straitjacket of a theory. It is a fortunate fact that the violation of the theories of our political system has led to no practical inconvenience."

Dr. Wilson had for his particular topic "The Place that the United States Has Occupied in Constitutional Development." He began by pointing out that there can be no constitutional government unless those who are governed have some form of common mind, purpose or connection, or, as he otherwise phrased it, "unless they form a community." He directed his inquiry stoward finding out whether or not the United States with its variety of people and con-ditions really did form a community, with the conclusion that in the United States there was a certain common consciousness not closely defined which had enabled us to form a constitutional government

worked by a double process—through the local and through the national government. "When," he said, "I have been abroad and have been asked if certain things are not characteristic of America I have had to inquire what part of the United States. We are not tied to the consciousness and the old country. One characteristic, how-ever, seems to be an inclination to move quickly, to read a book that can be read on the run. Those who teach us music say that we have no patience to learn the mere mechanical movements. There is a certain smartness, an impatience of punc-ilious detail. In England you can always recognize an American, if in no other way by his clothes. In England if you see a man whose clothes fit him you can be sure he is not an Englishman, but perhaps that s the fault of the tailors.
"An American of one part of the country

differs from one in another. Any college head who has looked into the faces of fresh-men classes will tell you that. He knows that it takes four years to make the class into any common thing."

THE COBBLER NO MORE CONTENT. So He Stops Singing and Forms a Union

Like an Ordinary Mortal. The first union of cobblers in New York was organized yesterday as the Second quarters at 133 Eldridge street, and will meet next week to elect officers and arrange for a union scale of wages. Up to the last few years each cobbler had his own little shop, but now most of the cobblers are employed by men who make second hand shoes nearly as good as new and take orders for heeling and soling. paying journeymen to do the work

The revamped footwear finds a ready sale along the Bowery and in Mulberry, Mott and Elizabeth streets. For a time the cobblers were as contented as they have always been supposed to be and sang at their work as cobblers are usually supposed to do, but recently they came to the conclusion that the increased cost of living necessitated

higher wages. A member of the union said yesterday that the cobblers at present earn from \$8 to \$10 a week, working twelve and fourteen hours a day, and they will demand a shorter workday and a new wage scale. There are some of them who work on machines, but a number work in the old fashioned way, sitting on a stool. Their wages depend on whether the soles on the second hand soles are sewed, "sprigged" or "sparabled, the men who sew being the most skilled.

"FRA DIAVOLO" REVIVED.

Fine Performance of the Old Favorite a Hammerstein's Opera House

It seemed like old times in the operation world of New York when Auber's "Fra Diavolo" was produced last night at the Manhattan for the first time in many years as a grand opera. It has been sung now and then by many comic opera aggregations all over the country, but it was last heard here amid more dignified surrounding in the old Academy of Music, which was the centre of grand opera a quarter of a century ago.

The revival last night of the tuneful and skittish opera was listened to by a very large audience, whose pleasure was expressed in long and frequent applause. Bonci, who had the title rôle, was in splendid voice and he sang with his accustomed skill and fervor in spite of the fact that a United States marshal was waiting behind the scenes to serve him in the injunction suit brought by Mr. Hammerstein. M. Gilibert was a very satisfactory Lord Roeburg and his appearance furnished much amusement to the audience, while M Arimondi was a typical bandit in voice and makeup. Among the other leading singers were Mme. Giaconia, who sang the part of Ledi Pamela, and Mlle. Pinkert, who was the Zerlina of the evening.

News of Plays and Players

Wagenhals & Kemper announce that eo Ditrichstein has finished a play for them called "The Ambitious Mrs. Alcott," a story of aristocratic society, with scenes laid in Washington. The play will be produced at the Astor Theatre early in April.
Amelia Stone was engaged ye by the Shuberts to replace Adele Ritchie for an important rôle in support of Eddie Foy in "The Orchid," which will be presented for the first time at the roy in "the Orchid," which will be presented for the first time at the Lyric Theatre, Philadelphia, on March 18.

Henry Miller and Margaret Anglin, who are playing in "The Great Divide" at the Princess Theatre, will open the next season in that play at Daly's Theatre, which will

be under the Shubert management. The Princess Theatre will be torn down at the close of this season. More Pay for Asphalt Workers. The Asphalt Workers' Union reported

vesterday that all the asphalt companies the city but one have granted the eight hour workday and an advance of 45 cents a day in wages. The delegates of the a day in wages. The delegates of the union said last night that the busy season begins in a week or two and on account of the severity of the winter, which has caused a good deal of damage to the streets, there will be an unusual demand for men

Moyer, Haywood and Pettibone Trial to

Begin Next Month. Boise City, Idaho, March 8. - Attorney lawley, prosecutor in the case of the State against Moyer, Haywood and Pettibone of the Western Federation of Miners, says the case against them, charging complicity in the assassination of Gov. Steunenberg, will probably be called about April 15.

JACKSON RAD POWER TO OVER-RIDE MAYER'S RULING.

ppellate Division So Holds but Says That McClellan Can Go to the Court of Appeals if He So Wishes-The Attorney-General's Ruling Is Not Judicial.

Mayor McClellan's appeal from the deision at Special Term denying his motion to set aside and vacate the service of the summons and complaint in the suit begun against him as a usurper in office by Atorney-General Jackson was dismissed yesterday by the Appellate Division of the Supreme Court by a unanimous decision. At the same time permission is granted the Mayor to carry his appeal to the Court of Appeals if he desires.

Justice Ingraham, writing the court's opinion, remarks that he doubts whether the Mayor can raise in his answer to the complaint the matters set forth in the papers on the motion before the court, namely that the whole subject in controversy had already been passed upon by former Attorney-General Mayer, who had refused to begin quo warranto proceedings on W. R. Hearst's application.

There can be no question, says the opinion, that on the allegations of the complaint in Mr. Jackson's suit a good cause of action is established, and it rested with the Attorney-General, as the attorney for the people to determine whether such a suit should be brought.

The question to be determined, therefore, is whether Mr. Mayer's action was a bar to the action of his successor, and Justice ingraham proceeds to review the laws under which quo warranto proceedings are authorized. He finds that there is no pro-vision of law which limits or restricts the vision of law which limits or restricts the Attorney-General in the exercise of his discretion as to whether an action by the people shall or shall not be brought, and he can bring such an action either on his own information or on the complaint of another person. The only restriction is that in the latter event the complaining citizen's name must appear in the papers and he must secure the State against liability for costs. Justice Ingraham adds: ity for costs. Justice Ingraham adds:

It seems to me in determining whether or not an action shall be brought the Attorney General acts under a discretion vested in him by law, which is not in any sense made to de pend upon the result of a judicialinvestigation, but is solely an exercise of the discretion vested in him as the law officer of the State. He may bring, and it is his duty to bring, th action when he is satisfied that the law has been violated and a person is exercising a public office or a public franchise without au thority or legal title to the office or fran-

The question is one submitted to his discretion, and he must exercise that discretion upon the facts as they appear to him from time to time when brought to his attention From the very nature of the discretion vested in him it seems to me impossible to say that exercises at any time a judicial function or that any determination becomes an adjudication which is binding upon him or upon any body else. The question not being judicial in its nature, the fact that one Attorney-General determined that he was not justified in commencing an action is no bar to the same Attorney-General or to his successors in subsequently determining that the facts as then presented to him require him to institute the action.

None of the cases cited by the learned counsel for the defendant have any application, as they all relate to proceedings of boards or public officers who are charged by law with the determination of questions to be submitted to them and where their determination is judicial in character, and not an act resting purely in discretion and upon which it is made the duty of the public officer to exercise his discretion from time to time as the circum stances require.

Eugene L. Richards, Jr., the Mayor's counsel, said last night that he would take the case to the Court of Appeals at once. He said that the case probably wouldn't get hearing for two weeks.

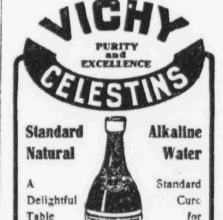
FITZGERALD TO BE A SLEUTH. Sub-Treasury Teller Transferred to the U., S. Secret Service.

CHICAGO, March 8 .- Sub-Treasury Teller George W. Fitzgerald, according to his own announcement, was transferred to-day from the Sub-Treasury Department to the Secret Service branch of the United States service. This action followed a meeting lasting two hours at which Sub-Treasurer Boldenweck, Chief of the Secret Service Wilkie and Fitzgerald were present.

Although the session in the Sub-Treas. erer's office at times waxed warm. Boldenweck and Fitzgerald were seen to shake hands cordially as the latter left the office. "The conference this morning was of the utmost importance," said Fitzgerald, "but I am not at liberty to disclose the nature f the matters under discussion. I have

of the matters under discussion. I have been relieved from the Sub-Treasury De-partment for duty on the staff of Chief Wilkie of the Secret Service." Just what the transfer of Fitzgerald from the Treasury payroli to that of the Secret Service Department signifies was not definitely told, but it is probable that the transfer has a direct bearing on Fitzgerald's threatened disclosures. After the con-ference with Fitzgerald Chief Wilkie made hurried preparations for a flying trip to Washington, and left at 5:30 this evening. When asked as to the object of his visit he refused to make any statement other than that he was called there on urgent business.
George B. Cortelyou, Secretary of the Treasury, is reported to have interested Treasury, is reported to have interested himself in the \$173,000 mystery and to have indirectly ordered Fitzgerald, from wh cage the money disappeared, to keep silent regarding threatened exposures. These are said to deal with alleged loose methods in the Sub-Treasurer's office.

The Brooklyn Bar and Justice Fitzgerald. The grievance committee of the Brooklyn Bar Association met late yesterday after noon to consider the case of Justice Thomas W. Fitzgerald of Staten Island, who at long intervals sits in the Brooklyn Court of Special Sessions. The Judge has absented himself from court duty for months and has also been involved as a defendant in litigation. President Albert G. McDonald said the committee would meet in private and would make no statement for publication. tion until a report had been submitted



VICHY Water Dyspepsia Stomach Highly Troubles Medicinal and Qualities Gout

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Owned by and bottled under the direct control of the French Government

The Manager Store

Store Closes at 5:30 P. M.

# This Broadway and Ninth Street Store for MEN

And Boys

Convenient: The ENTIRE Main floor. Two entrances on Broadway, one on Ninth street, one on Fourth avenue and another at the Astor Place Corner.

Prompt, Intelligent Service: Capable MEN to: serve you with everything a man wears.

Complete, Satisfying Stocks: Our foreign buyers keep the new things coming forward on our counters as rapidly as they appear abroad, and as quickly as the fast steamers can bring them. Neckwear, Shirts. Fine Socks, in particular.

Of the Men's Wear made on this side, early showings are still more ample:

#### Smart, New OVERCOATS: Ready-

Fresh, trim garments that well-dressed men will want for the first warming days that are already crowding the blizzard off the stage. The ultra shapes, with the conservative styles, invite inspection today. \$15 to \$25.

#### New Spring SACK SUITS, Too-

In colors and shapes they bring the snap of newness. The materials are most pleasing, the style and workmanship will impress the man who knows good clothing. \$15 to \$38.

#### The Last of the Winter CLOTHING-

Excellent Suits and Overcoats, for Men and Young Men. Small lots, of course; but the figures at which they are now marked will cause gratification next Fall to those who possess the garments then. You might be willing to pay double; but you won't need to-your Winter clothing will be ready.

Men's Overcoats at \$11.50. Formerly \$15 to \$25. Men's Suits at \$11.50. Formerly \$15 to \$25. Young Men's Overcoats at \$10. Formerly \$12 to \$20. Young Men's Suits at \$10. Formerly \$12 to \$25.

New Clothing for Boys-

The boy's school suit is probably the worse for the Winter's wear, if ne is a youngster of usual activity. The new Spring styles in "Wana maker Special" Sults, at \$5, will fix him up in fine shape at moderate cost. Every fabric is absolutely all-wool, the seams are double-sewed with silk thread. Styles include Norfolk jacket and double-breasted jacket suits, sizes for 8 to 16 years, sailor blouse and Russian blouse suits, sizes for 3 to 7 years and 5 to 10 years. Also Reefers for boys of 3 to 12 years, and Top-Coats for boys of 8 to 17 years, at \$5.

We also have today a special lot of Combination Suits of all-wool mixed cheviots, with Norfolk jacket or double-breasted jacket, of knickerbocker trousers, in sizes for 8 to 16 years. Price, \$7.50 for the three pieces. They are in new Spring styles, and well worth a dollar more.

Men's Derbies at \$1.85-

In self-conforming and full stiff styles, with flat brims or round curls. in various heights of crowns and widths of brims correct for this season. All sizes from 65 to 715. The bodies of these hats were not counted as perfect and up to the high standard of the manufacturer, whose regular products sell at \$3.50 to \$5. All are made up in the new styles and finished in the same manner as the regular hats. They will be welcomed by men at the low price for which they are now selling. \$1.85 each.

## New Spring Neckwear for Men-

Every day is now adding fresh supplies to the stock of Men's Neckwear at 50c. \$1 and \$1.50 each The man who comes in today will find ample variety in the various shapes and styles. These are at the Broadway counters. At the Fourth avenue side will be found a large collection of Four-in-hand Scarfs, of plain and fancy silks, at 25c each. Nearby will be found a counter filled with excellent Lisle Elastic Suspenders, made of webbings that usually go into half-dollar goods, now selling at 25c each.

#### Men's \$1.50 and \$2 Shirts at \$1-

A manufacturer's emergency brings this opportunity, which is quite unusual at this season. The shirts come from one of the best manufacturers. made of new Spring materials in handsome styles; beautifully laundered; attached or separate cuffs; stiff or plaited bosoms; sizes 14 to 17 \$1 each.

## New Half Hose for Men-

A feature of the stocks at the present time is a rare collection of pure Silk Socks, in the bright Spring colors-self-colors of terracotta, in three shades, two shades of green; also in violet, lilac, hyacinth and gray. It is an unusual collection. The price is \$5 a pair.

There is the same freshness about Socks at popular prices. At 50c a pair there is practically every kind of lisle thread Half Hose that comes from the looms, in delicate colors and black, as well as a multi-

Another large assortment at 37 c. and a fine variety of excellent cotton Half Hose, in colors and black, in plain and fancy designs, at 25c

## New Styles in Shoes for Men-

These stocks command the interest of men for two reasons—the excellence of the styles, materials and workmanship, and the quality betterness at the price. You find here only styles that are absolutely correct, whether you know just what you want, or not. You find men to serve you who will make it impossible for you to get the wrong model to give you foot-comfort. If you have a definite idea of your own, you will find the shoe you require in these stocks.

The "Wanamaker Special" Shoes at \$3.90 a pair present not only remarkable value, but in addition to the usual shapes there are unexpected styles that usually are found only in much higher-priced lines. For instance, the storm shoes for snowy or wet weather wear. The handsome tan Oxfords for bright Spring days, as well as the dressy patent leathers and the conservative business shoes.

Younger men will admire the snappy styles shown in our new \$2.85 shoes. And there are many more, up to the finest bench-made shoes for

## JOHN WANAMAKER

Formerly A. T. Stewart & Co., Broadway, Fourth Avenue, Eighth to Tenth Street.